

§ 2.172

37 CFR Ch. I (7–1–10 Edition)

Branch, and divide out the assigned goods/services from the registered extension of protection (parent registration), issue an updated certificate for the parent registration, and publish notice of the parent registration in the *Official Gazette*.

(ii) The Office will create a new registration number for the child registration, and enter the information about the new registration in its automated records. The Office will notify the new owner that the new owner must pay the fee required by § 2.6 to obtain a new registration certificate for the child registration. It is not necessary for the new owner to file a separate request to divide.

(iii) The Office will not divide a registered extension of protection unless the International Bureau notifies the Office that the international registration has been divided.

[73 FR 67774, Nov. 17, 2008, as amended at 74 FR 54910, Oct. 26, 2009]

§ 2.172 Surrender for cancellation.

Upon application by the owner, the Director may permit any registration to be surrendered for cancellation. The application for surrender must be signed by the owner of the registration, someone with legal authority to bind the owner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter. When a registration has more than one class, one or more entire class(es) but fewer than the total number of classes may be surrendered. Deletion of fewer than all the goods or services in a single class constitutes amendment of the registration as to that class (*see* § 2.173), not surrender.

[74 FR 54910, Oct. 26, 2009]

§ 2.173 Amendment of registration.

(a) *Form of amendment.* The owner of a registration may apply to amend a registration or to disclaim part of the mark in the registration. The owner must submit a written request specifying the amendment or disclaimer. If the registration is involved in an *inter partes* proceeding before the Trademark Trial and Appeal Board, the request

must be filed by appropriate motion to the Board.

(b) *Requirements for request.* A request for amendment or disclaimer must:

(1) Include the fee required by § 2.6;

(2) Be signed by the owner of the registration, someone with legal authority to bind the owner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner who meets the requirements of § 11.14, and verified or supported by a declaration under § 2.20; and

(3) If the amendment involves a change in the mark: a new specimen showing the mark as used on or in connection with the goods or services; an affidavit or declaration under § 2.20 stating that the specimen was in use in commerce at least as early as the filing date of the amendment; and a new drawing of the amended mark.

(c) *Registration must still contain registrable matter.* The registration as amended must still contain registrable matter, and the mark as amended must be registrable as a whole.

(d) *Amendment may not materially alter the mark.* An amendment or disclaimer must not materially alter the character of the mark.

(e) *Amendment of identification of goods.* No amendment in the identification of goods or services in a registration will be permitted except to restrict the identification or to change it in ways that would not require republication of the mark.

(f) *Conforming amendments may be required.* If the registration includes a disclaimer, description of the mark, or other miscellaneous statement, any request to amend the registration must include a request to make any necessary conforming amendments to the disclaimer, description, or other statement.

(g) *Elimination of disclaimer.* No amendment seeking the elimination of a disclaimer will be permitted, unless deletion of the disclaimed portion of the mark is also sought.

[73 FR 67774, Nov. 17, 2008]

§ 2.174 Correction of Office mistake.

Whenever Office records clearly disclose a material mistake in a registration, incurred through the fault of the